

## Office of the Secretary, Interior

## § 4.1104

### GENERAL PROVISIONS

#### § 4.1100 Definitions.

As used in the regulations in this subpart, the term—

(a) *Act* means the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 445 *et seq.*, 30 U.S.C. 1201 *et seq.*

(b) *Administrative law judge* means an administrative law judge in the Hearings Division of the Office of Hearings and Appeals appointed under 5 U.S.C. 3105 (1970).

(c) *Board* means the Board of Land Appeals in the Office of Hearings and Appeals.

(d) *OHA* means the Office of Hearings and Appeals, Department of the Interior.

(e) *OSM* and *OSMRE* mean the Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

[43 FR 34386, Aug. 3, 1978, as amended at 49 FR 7565, Mar. 1, 1984; 59 FR 1488, Jan. 11, 1994; 67 FR 61509, Oct. 1, 2002]

#### § 4.1101 Jurisdiction of the Board.

(a) The jurisdiction of the Board, as set forth in § 4.1(b)(3), and subject to §§ 4.21(d) and 4.5, includes the authority to exercise the final decisionmaking power of the Secretary under the act pertaining to—

(1) Applications for review of decisions by OSM regarding determinations concerning permits for surface coal mining operations pursuant to section 514 of the act;

(2) Petitions for review of proposed assessments of civil penalties issued by OSM pursuant to section 518 of the act;

(3) Applications for review of notices of violation and orders of cessation or modifications, vacations, or terminations thereof, issued pursuant to section 521(a)(2) or section 521(a)(3) of the act;

(4) Proceedings for suspension or revocation of permits pursuant to section 521(a)(4) of the act;

(5) Applications for review of alleged discriminatory acts filed pursuant to section 703 of the act;

(6) Applications for temporary relief;

(7) Petitions for award of costs and expenses under section 525(e) of the act;

(8) Preliminary findings concerning a demonstrated pattern of willful violations under section 510(c) of the act;

(9) Suspension or rescission of improvidently-issued permits;

(10) Challenges to ownership or control listings or findings;

(11) Determinations under 30 CFR part 761;

(12) Appeals from orders or decisions of administrative law judges; and

(13) All other appeals and review procedures under the act which are permitted by these regulations.

(b) In performing its functions under paragraph (a) of this section, the Board is authorized to—

(1) Order hearings; and

(2) Issue orders to secure the just and prompt determination of all proceedings.

[43 FR 34386, Aug. 3, 1978, as amended at 67 FR 61509, Oct. 1, 2002]

#### § 4.1102 Construction.

These rules shall be construed to achieve the just, timely, and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved.

#### § 4.1103 Eligibility to practice.

(a) An administrative law judge or the Board may determine the eligibility of persons to practice before OHA in any proceeding under the act pursuant to 43 CFR part 1.

(b) If an administrative law judge or the Board determines that any person is not qualified to practice before OHA, the administrative law judge or the Board shall disqualify the person and report the disqualification to the Director of OHA.

(c) Upon receipt of a report under paragraph (b) of this section, the Director of OHA may request the Solicitor to initiate a disciplinary proceeding under 43 CFR 1.6.

#### § 4.1104 General rules relating to procedure and practice.

Proceedings in OHA under the act are subject to the general rules relating to procedures and practice in subpart B of this part.